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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

	)	2 CA-JV 2008-0078
	)	DEPARTMENT A
	)	
IN RE PALMER W.	)	MEMORANDUM DECISION
	)	Not for Publication
	)	Rule 28, Rules of Civil
	)	Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 16477402

Honorable Charles S. Sabalos, Judge
Honorable Kathleen Quigley, Judge Pro Tempore

AFFIRMED

Barbara LaWall, Pima County Attorney
By Dale Cardy
Tucson
Attorneys for State

Robert J. Hirsh, Pima County Public Defender
By Susan C. L. Kelly
Tucson
Attorneys for Minor

H O W A R D, Presiding Judge.

¶1 Appellant Palmer W. was adjudicated delinquent based on two petitions, one filed on January 2, 2008, and the other on February 28, 2008. He admitted allegations set forth in an amended petition relating to the February 28 petition. After a hearing, the

juvenile court adjudicated him delinquent on the January 2 petition, finding him responsible on one count of criminal damage. The court placed Palmer on probation for both adjudications and ordered him to pay restitution in a stipulated amount to the victim of the criminal damage. On appeal, Palmer contends there was insufficient evidence to support the juvenile court's finding that he had committed criminal damage as alleged in the January 2 petition.

¶2 "In reviewing the juvenile court's adjudication of delinquency, we review the evidence and resolve all reasonable inferences in the light most favorable to upholding its judgment." *In re Jessi W.*, 214 Ariz. 334, ¶ 11, 152 P.3d 1217, 1219 (App. 2007). We do not reweigh the evidence on appeal. *In re James P.*, 214 Ariz. 420, ¶ 24, 153 P.3d 1049, 1054 (App. 2007). Nor do we assess the credibility of witnesses, leaving such evaluations to the juvenile court to make in the exercise of its discretion, as it is in the best position to do so. *Id*. The evidence need not be direct in order to support a delinquency adjudication; rather, it must simply support the inference that the juvenile committed the charged offense. *See In re Andrew A.*, 203 Ariz. 585, ¶ 10, 58 P.3d 527, 529 (App. 2002). We will not disturb the court's order unless "there is a complete absence of probative facts to support the judgment or if the judgment is contrary to any substantial evidence." *In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001).

¶3 A person commits the offense of "criminal damage by recklessly . . . [d]efacing or damaging property of another person." A.R.S. § 13-1602(A)(1). The state presented more than ample evidence to support the court's finding that Palmer had damaged the

victim's truck by throwing rocks at it, thereby committing the charged offense. The victim testified at the adjudication hearing that, while washing the truck he had purchased less than a month earlier, he noticed it was damaged. He described what he called "ping marks and missing paint in small areas" along the passenger side of the truck and stated that he had seen some landscaping rocks about one-inch in diameter in his driveway. The victim suspected Palmer had damaged the truck, having had previous "issues" with Palmer related to the victim's son; the victim testified Palmer had "bullied" his son on Halloween evening and had taken his son's candy. The victim had reported the incident to a police officer who had been patrolling in the neighborhood. After that, Palmer had left a threatening voice message on the victim's son's cellular telephone.

¶4 Teddy P., a classmate of Palmer's, testified he and Palmer had been walking in a wash one night and "Palmer decide[d] that he want[ed] to throw rocks at" the victim's truck. Teddy testified that he had "said no, and . . . turned around and . . . walked away." At that point, they were at a bridge at the end of the street near the victim's house. During approximately a thirty-second to one-minute interval in which the two were separated, Teddy heard "a clang, clang . . . like rocks hitting metal." The bridge was a little over two hundred feet from the victim's home and faced the passenger side of the victim's truck. According to Teddy, when Palmer caught up with him, Palmer had said "he nailed it."

¶5 Marana Police Officer Mario Rene Williams testified he had responded to a call made by the victim reporting criminal damage. He spoke to Palmer about the incident after talking to Teddy. Palmer admitted to Williams that he and Teddy had gone to the

victim's home, intending to damage the truck, but had changed their minds. Palmer also testified at the adjudication hearing. He admitted he and Teddy had gone to the victim's house intending to throw rocks at the truck but insisted that they decided not to. He denied having said, "I nailed it," but testified he had said, he "bailed it," by which he had meant he had decided not to damage the truck.

¶6 At the end of the hearing, the juvenile court commented that counsel had done "an admirable job . . . , but I do find that the State has met the burden of proof and will adjudicate the Minor as to Count One, criminal damage . . . ." Clearly, the court assessed the credibility of the witnesses and did not find Palmer's version of the events believable. That was the court's prerogative as the trier of fact. From the evidence presented and the reasonable inferences therefrom, the court reasonably could find Palmer had committed the offense.

¶7 The juvenile court's order adjudicating Palmer delinquent on the January 2, 2008, petition is affirmed, as is the disposition order.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

PETER J. ECKERSTROM, Judge